IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE EIGHTH DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION NO : 4728 of 1998

Between:

Kattela Vajramma W/o David
R/o Chakirala Village, Nadigudem Mandal,
Nalgonda Distirct.

..... PETITIONER

AND

1 The District Collector,
Nalgonda District, Nalgonda.
2 The Mandal Revenue Officer,
Nadigudem Mandal, Nalgonda District.
3 Matangi Punnaiah S/o Janaiah
R/o Chekirala Village, Nadigudem Mandal,
Nalgonda District.
4 Matangi Eadayya S/o Janaiah
R/o Chakirala Village, Nadigudem Mandal,
Nalgonda District.

.....RESPONDENT(S)

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction more particularly in the nature of Writ of Mandamus declaring the action of the 2nd respondent in issuing Patta Transfer Certificate in No.A/4190/97,dt.22-10-97 and consequential Pattadars Pass Books in favour of the 3rd & 4th Respondents respectively in respect of land in an extent of Ac.1.00 in R.S.No.111 of Chakirala Village, Nadigudem Mandal, Nalgonda district in contravention of the assignment of the said land in favour of the Petitioner in Patta Certificate No.1/6385/75 issued in the year 1975 as arbitrary, illegal and against the provisions of the A.P. Assigned Land(Prohibition of Transfer) Act,1977 as also Article 14, 21 and 300-A of the Constitution of India and consequently direct the Respondents not to interfere with the peaceful possession and enjoyment of the petitioner of the said land and to pass such other orders.

Counsel for the Petitioner: MR.P.PRABHAKAR RAO

Counsel for the Respondent Nos.1 and 2: GP FOR REVENUE

Counsel for the Respondent Nos.3 and 4:None appeared

The Court made the following Order:

THE HON'BLE MR JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION NO. 4728 of 1998

ORDER:

This writ petition is filed seeking a Writ of Mandamus declaring the action of the 2nd respondent in issuing Patta Transfer Certificate in No.A/4190/97,dated 22-10-1997 and consequential Pattadar Pass Books in favour of the 3rd & 4th respondents respectively in respect of land in an extent of Ac.1.00 in R.S.No.111 of Chakirala Village, Nadigudem Mandal, Nalgonda district in contravention of the assignment of the said land in favour of the Petitioner in Patta Certificate No.1/6385/75 issued in the year 1975 as arbitrary, illegal and against the provisions of the A.P. Assigned Land(Prohibition of Transfer) Act, 1977 and consequently direct the respondents not to interfere with the peaceful possession and enjoyment of the petitioner over the land in question.

The case of the petitioner is that she was assigned an extent of Ac.1.50 cents of wet land in R.S.No.111 of Chakirala village, Nadigudem Mandal, Nalgonda District in the year 1975 under the provisions of the then Board Standing Orders and since then she has been in possession and enjoyment of the same. It is her further case that she was also issued patta certificate in the year 1975 itself and her name was also entered into the revenue records. The grievance of the petitioner is that the 2nd respondent had issued patta transfer certificates dated 22.10.1997 in favour of respondents 3 and 4 to the very same land, without issuing any notice to her and without following due procedure prescribed under law.

Heard the learned Counsel for the petitioner and the learned Government Pleader for Revenue appearing on behalf of respondents 1 and 2.

While admitting this writ petition, this Court, on 20.2.1998, granted interim suspension of the operation of the patta transfer certificates dated 22.10.1997 and

also consequential pattadar pass books issued in favour of respondents 3 and 4 by the 2nd respondent in respect of the land in question.

The learned Government Pleader for Revenue submits that it is a fact that the petitioner was assigned an extent of Ac.1.50 cents of land under the provisions of the then Board Standing Orders, but subsequently as the petitioner sold away the said land in favour of respondents 3 and 4 contrary to the Rules, respondents 3 and 4 are in possession of the same since 1983 and that they are shown as possessors in the village records and patta transfer certificates were also issued in favour of respondents 3 and 4.

Admittedly, the petitioner was allotted an extent of Rs.1.50 cents of land in the year 1975 and subsequently the 2nd respondent has issued patta transfer certificates in favour of respondents 3 and 4 on 22.10.1997. When the respondent authorities want to resume the land and to assign the same in favour of third parties, they are at liberty to do so. However, principles of natural justice require that the persons to whom the assignment was made shall be put on notice and the said resumption or cancellation shall be done only after holding an enquiry. In the instant case, it is clear that the petitioner was never put on notice and the petitioner had no occasion to express her grievance. Hence, I am of the opinion that the action of the 2nd respondent in issuing patta transfer certificates dated 22.10.1997 in favour of respondents 3 and 4 in respect of the land in question is illegal and arbitrary.

The Writ Petition is accordingly allowed. However, respondents 1 and 2 are directed to hold fresh enquiry and pass appropriate orders after giving opportunity of hearing to the petitioner. No costs.

8-12-2004

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That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Wednesday the Eighth day of December Two Thousand and Four.

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To

1. The District Collector,
   Nalgonda District, Nalgonda.

2. The Mandal Revenue Officer,
   Nadigudem Mandal, Nalgonda DistricT.

3. Two CCs to G.P. for Revenue, A.P. High Court Buildings,

Hyderabad, (OUT).

4 Two CD copies.

THE HON'BLE MR JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION NO. 4728 of 1998

8-12-2004